

## **REMARKS**

Claims 1-14 and 26-29 remain pending in the application with claims 15-25 being withdrawn from consideration. Reconsideration and review of claims 1-14 and 26-29 are respectfully requested.

Claims 1, 4-14 and 26-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,534,132 to Smith. The Examiner apparently takes the position that applicants' claimed invention with respect to the coil portion moving with the lid is an obvious functional equivalent of Smith's arrangement of the spring in relation to the hatch frame. Applicants disagree. The Examiner has not produced any evidence regarding this so-called obvious functional equivalent.

The burden of establishing a prima facie case of obviousness falls on the Examiner. MPEP § 2142. Obviousness cannot be established by combining or modifying the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination or modification. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a prima facie case of obviousness, the Examiner must not only show that the combination includes each and every element of the claimed invention, but also provide "a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). That is, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP § 2143.01.

In the case at hand, Applicants believe that a prima facie case of obviousness has not been made based on the art of record because there is simply no motivation or suggestion in Smith to modify the spring arrangement of Smith in the manner defined by the claims. Further, there is no evidence regarding knowledge generally available to one of ordinary skill in the art. As is clearly shown in Figs. 2 and 4 of Smith, Smith teaches that the coil portion 73a of the spring 73 is secured by a fixed spindle 74 such that the coil portion is secured within the frame 15 and thus does not rotate with the lid. Therefore, Smith cannot be said to teach or suggest that which is called for in independent claims 1, 8 and 26: namely that the coil portion moves with the lid away from the frame when the lid is in the open position as defined by claim 1; or the coil

portion is configured to rotate with the lid as the lid is moved from the closed position to the open position, as defined by claims 8 and 26. There is simply no suggestion in Smith that it would be desirable for the spring in the door assembly of Smith to move with the lid 44.

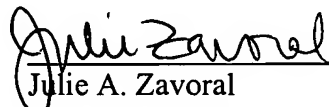
The present application recognizes that a need exists for a spring assembly that does not significantly impede workers, equipment or other items from entering and exiting the opening. Thus the desirability of a modification of Smith is only suggested by the present application and not by Smith itself, and to suggest otherwise is to take advantage of impermissible hindsight.

Thus claims 1, 8 and 26 define over Smith and are patentable. The remaining pending claims depend from these claims and are allowable at least for the same reasons. In this regard, the Examiner has indicated that claims 2 and 3 are allowable if rewritten in independent form.

A telephone interview to discuss this case is requested. Please contact the undersigned at the telephone number appearing below to schedule it.

The payment of any fees arising as a result of this Response or any other communication from Deposit Account 17-0055 is hereby authorized.

Respectfully submitted

  
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